

ESTTA Tracking number: **ESTTA576014**

Filing date: **12/11/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91213286
Party	Defendant SIS Resources Ltd.
Correspondence Address	RACHEL D. BRANDEIS-DANIELOV, ESQ. GREEN SMOKE, INC. 20533 BISCAYNE BLVD STE 784 MIAMI, FL 33180-1529 UNITED STATES rachelb@greensmoke.net
Submission	Answer
Filer's Name	Rachel D. Brandeis-Danielov, Esq./
Filer's e-mail	rachelb@GreenSmoke.net
Signature	/Rachel D. Brandeis-Danielov, Esq./
Date	12/11/2013
Attachments	Answer final.pdf(216540 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

STARBUZZ TOBACCO, INC.,)	
)	
Opposer,)	Opposition No. 91213286
v.)	
)	Serial No. 85/846,992
SIS RESOURCES, LTD.,)	
)	Mark: MOCHA MIST
Applicant.)	
)	Published: July 9, 2013
)	

APPLICANT’S ANSWER TO NOTICE OF OPPOSITION

Comes now SIS Resources, Ltd. (hereinafter referred to as “Applicant”) by and through its legal counsel, Rachel D. Brandeis-Danielov, Esq., and hereby timely responds to the Notice of Opposition (hereinafter referred to as the “Opposition”) filed by Starbuzz Tobacco, Inc. (hereinafter referred to as “Opposer”) as follows:

1. Denied. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Opposition, and therefore denies those allegations.

2. Admitted in part, denied in part. Admitted to the extent that Opposer is the owner of record for Reg. No. 3,619,407 and that the registration identifies the goods, “Pipe Tobacco, Tobacco, Smoking Tobacco, Flavored Tobacco, Molasses Tobacco,” in International Class 034. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 2 of the Opposition, and therefore denies those allegations.

3. Admitted in part, denied in part. Admitted to the extent that Opposer is the owner of record for Reg. No. 3,695,500 and that the registration identifies the goods, "Pipe tobacco; molasses tobacco; tobacco; smoking tobacco; flavored tobacco; herbal molasses herbs for smoking, tobacco and tobacco substitutes," in International Class 034. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 3 of the Opposition, and therefore denies those allegations.

4. Applicant admits to Paragraph 4 of the Opposition.

5. Admitted in part, denied in part. Applicant admits that Applicant is an Israeli corporation, whose address is P.O. Box 674, 99000 Bet Shemesh, Israel. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 5 of the Opposition, and therefore denies those allegations.

6. Admitted in part, denied in part. Applicant admits that Applicant has appointed Ms. Rachel D. Brandeis-Danielov, Esq., whose address is 20533 Biscayne Blvd., Suite 784, Miami, Florida 33180-1529, as the representative upon whom the Opposition may be served. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 6 of the Opposition, and therefore denies those allegations.

7. Admitted in part, denied in part. Applicant admits that, on February 12, 2013, Applicant filed U.S. Application Ser. No. 85846992, for the mark "MOCHA MIST" identifying the goods, "Electronic cigarettes components, accessories, parts, and structural parts therefor, namely, refill cartridges, cartomisers, and atomisers." Applicant lacks knowledge and information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 7 of the Opposition, and therefore denies those allegations.

8. Applicant admits to Paragraph 8 of the Opposition.

9. Applicant admits to Paragraph 9 of the Opposition.

10. Denied. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Opposition, and therefore denies those allegations.

11. Applicant incorporates by reference Applicant's answer to the preceding paragraphs as if fully stated herein.

12. Applicant denies the allegations set forth in Paragraph 12.

13. Applicant incorporates by reference Applicant's answer to the preceding paragraphs as if fully stated herein.

14. Applicant denies the allegations set forth in Paragraph 14.

15. Applicant denies the allegations set forth in Paragraph 15.

16. Applicant denies the allegations set forth in Paragraph 16.

17. Denied. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Opposition, and therefore denies those allegations.

18. Denied. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Opposition, and therefore denies those allegations.

19. Denied. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Opposition, and therefore denies those allegations.

20. Denied. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Opposition, and therefore denies those allegations.

21. Denied. Applicant lacks knowledge and information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Opposition, and therefore denies those allegations.

22. Admitted in part, denied in part. Applicant admits that Starbuzz has no control over the nature or quality of Applicant's goods that bear Applicant's mark. Applicant denies the remainder of the allegations set forth in Paragraph 22.

23. Applicant denies the allegations set forth in Paragraph 23.

24. Applicant denies the allegations set forth in Paragraph 24.

AFFIRMATIVE DEFENSES

Applicant currently has insufficient knowledge or information on which to form a belief as to whether it may have affirmative defenses available. Applicant reserves the right to assert affirmative defenses in the event that discovery indicates it would be appropriate.

WHEREFORE, Applicant respectfully requests that the Opposition be dismissed and that judgment be entered in favor of Applicant.

Respectfully submitted,

Attorney for Applicant

Dated: December 11, 2013

/Rachel D. Brandeis-Danielov, Esq./
Rachel D. Brandeis-Danielov, Esq.
Green Smoke, Inc.
20533 Biscayne Blvd., Suite 784
Miami, FL 33180
(305) 692-0145
rachelb@GreenSmoke.net

Certificate of Service

I hereby certify that a true and complete copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION has been served on Martin E. Jerisat, Esq., attorney for the Opposer, by sending said copy on December 11, 2013, by electronic mail to: martin@starbuzztobacco.com after procuring written consent from Attorney Jerisat in accordance with Rule 2.119.

Dated: December 11, 2013

/Rachel D. Brandeis-Danielov, Esq./
Rachel D. Brandeis-Danielov, Esq.
Attorney for Applicant